

702 KAR 3:020. Bond issue approval.

RELATES TO: KRS 58.150, 156.070, 156.200, 156.210, 162.080, 162.090, 162.100, 162.120-162.290, 162.300, 162.385

STATUTORY AUTHORITY: KRS 58.150(1), 156.070(1), 160.160, 162.160, 162.170, 162.180

NECESSITY, FUNCTION, AND CONFORMITY: KRS 58.150(1) authorizes the Kentucky Board of Education to allow local school districts to issue revenue bond anticipation notes as an initial financing mechanism. KRS 156.070(1) gives the Kentucky Board of Education the management and control of the common schools. KRS 156.200 and 156.210(1) require the Commissioner of Education to receive all reports and supervise all accounts of local boards of education, and to rectify any improper use of school funds. KRS 160.160, 162.080, 162.090, 162.100, 162.120 to 162.290, 162.300, and 162.385 establish methods and authorizations for school districts to finance capital construction projects through bonds. This administrative regulation establishes procedures for the approval of bond and bond anticipation note issues by school districts.

Section 1. The Commissioner of Education shall determine the financial soundness of all school revenue bond issues. He shall supervise all phases of school revenue and voted bonds.

Section 2. The Commissioner of Education shall disapprove the sale of any school revenue or school voted bond issue which he deems to be not in accord with Kentucky Board of Education administrative regulations or financially unsound for the district in question.

Section 3. Fiscal agents shall be registered with the Department of Financial Institutions in the Commonwealth of Kentucky. The local board of education shall select the fiscal agent for the proposed revenue bond issue. The fiscal agent shall employ appropriate bond counsel subject to approval of the local board of education. The allowable discount on bonds shall not exceed two (2) percent of the par value of the issue under contract.

Section 4. Twenty (20) percent of the fund to Support Education Excellence in Kentucky (SEEK) capital outlay funds shall be set aside as a safety factor in determining the initial bonding potential of a local district. The Commissioner of Education may allow safety factors below twenty (20) percent to a minimum of ten (10) percent on a case by case basis dependent upon the financial stability of the individual school district. The following sources of revenue shall be eligible as annual revenues in support of school building revenue bonds or notes:

- (1) SEEK capital outlay funds (KRS 157.420);
- (2) Facilities Support Program of Kentucky funds (KRS 157.440);
- (3) School building funds (KRS 160.476); and
- (4) Special trust funds (if a legal opinion is provided by bond counsel).

Section 5. (1) Revenue bond anticipation notes or the reissuance (roll over) of bond anticipation notes shall be issued only upon approval of the Kentucky Board of Education on a case by case basis and in accord with KRS 58.150.

(2) Prior to submittal to the Kentucky Board of Education for approval, the local school district shall provide the Department of Education the following financial information:

- (a) Sources and annual amounts of revenue available for debt service;
- (b) Projected debt service of a comparably-sized bond issue using maximum interest rates that the district could support with current available revenues as reflected in paragraph (a) of this subsection; and
- (c) Projected debt service on a comparably-sized bond issue based on the then-current market.

(3) The following criteria shall apply to determining the approval of bond anticipation notes or the reissuance (roll over) of bond anticipation notes:

(a) The district shall show evidence that the available fiscal resources could support a twenty (20) year revenue bond issue at the then-current market rates plus one and five-tenths (1.5) percent;

(b) The district shall agree to escrow the difference between a regular revenue bond issue at the then-current market rate twenty (20) year amortization schedule, level principal redemption, and the annual net interest cost of the bond anticipation notes. The escrow account shall be used to reduce the principal of the note at the call date, the termination date, or as is stipulated in the terms and conditions of the issue note;

(c) Notes shall be issued for a period not less than two (2) nor more than four (4) years with a one (1) year call provision; and

(d) Bonds may be required to be issued to replace callable notes if market conditions change so that permanent financing is advisable and warranted.

Section 6. The maximum net interest cost for the sale of school revenue bonds established by the Kentucky Board of Education shall be a rate no greater than the most current Bond Buyer's 20 - Bond Index plus one and five-tenths (1.5) percent. If a bid on an issue of bonds exceeds the maximum interest rate, the Commissioner of Education may declare an emergency to exist and request the chairman to convene the Kentucky Board of Education for the purpose of approving or disapproving his recommendation that the bonds be sold. (SBE 21.010; 1 Ky.R. 69; eff. 11-13-1974; 6 Ky.R. 283; 383; eff. 1-2-1980; 12 Ky.R. 412; eff. 11-12-1985; 15 Ky.R. 1916; eff. 3-23-1989; 17 Ky.R. 1545; eff. 12-9-1990; 21 Ky.R. 1783; eff. 3-2-1995; 28 Ky.R. 1201; 1631; eff. 1-14-2002; Crt eff. 11-16-2018.)